

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CRIMINAL MISC.APPLICATION No. 1502 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the Civil
Judge?

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KARANSING N. MANDVATH & 4 - Applicant(s)

Versus

THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR SHITAL R PATEL for Applicant(s) : 1 - 5.

MR M.R. MENGDEY, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 1,

MR SHAKEEL A QURESHI for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 26/06/2007

ORAL JUDGMENT

1. Rule. Mr. M.R.Mengdey, learned Additional Public Prosecutor waives service of rule on behalf of respondent No.1. Mr. Shakeel Qureshi, learned

Advocate waives service of rule on behalf of respondent No.2.

2. Shri Shital Patel, learned Advocate appearing on behalf of the petitioners - original respondents does not press the present application for quashing complaint / F.I.R. so far as the alleged offence under Sections 420, 423, 443, 465, 467, 471, 474, 120B read with Section 34 of the Indian Penal Code, however, with a liberty to move appropriate application for discharge if charge-sheet is filed against the petitioners. However, he has submitted that so far as the F.I.R. / complaint against the petitioners for the offences under Section 3(1)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act ("the said Act" for short), is concerned, there is no allegation against the petitioners and in fact property in question was sold. He has submitted that to continue prosecution against the petitioners for the said offence would be abuse of process of law and it is requested to quash the complaint *qua* said offence.

3. Shri Qureshi, learned Advocate appearing on behalf of respondent No.2 - original complainant is not in a position to satisfy this Court with regard to the averments and/or any offence committed by the petitioners for the offence under Section 3(1)(5) of the said Act. Under the circumstances, to continue prosecution against the petitioners for offence under Section 3(1)(5) of the said Act, would be abuse of

process of law and the same cannot be continued.

4. Under the circumstances, complaint being Inquiry Case No. 129 of 2004 against the petitioners for the offence under Section 3(1)(5) of the said Act is hereby quashed and set aside. It is also required to be noted that as such technically speaking even the learned Chief Judicial Magistrate, Vadodara while issuing summons against the petitioners has not specifically issued process for the aforesaid offence. With these, present application is allowed to the aforesaid extent. So far as rest of the offences are concerned, the petitioners are permitted to withdraw with above liberty. Rule is made absolute to the aforesaid extent.

[M.R.Shah, J.]

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